

Message Text

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ORIGIN NEA-16

INFO OCT-01 ISO-00 SP-03 AID-20 EB-11 NSC-07 RSC-01

CIEP-02 TRSE-00 SS-20 STR-08 OMB-01 CEA-02 ARA-16 L-03

AGR-20 IGA-02 H-03 /136 R

DRAFTED BY NEA/PAB:LBLESSER:AID/GCCGOLDSTEIN/MW

APPROVED BY NEA/PAB:PDCONSTABLE

AID/ASIA/SA:CHREES (DRAFT)

AID/FFP:AMERCKER (DRAFT)

AID/GC:ARRICHSTEIN (DRAFT)

ARA/CCA:MJHOFFENBERG (DRAFT)

L/NEA:SNELSON (DRAFT)

USDA/FAS:AMEAD (DRAFT)

EB/OFPP/CCAVANAUGH (DRAFT)

L/ARA:DGANTZ (DRAFT)

USDA/FAS:HNORTON(DRAFT)

USDA/OGC:RBOR(DRAFT)

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R 022239Z JUL 74

FM SECSTATE WASHDC

TO AMEMBASSY DACCA

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E.O. 11652: N/A

TAGS: EAID, EAGR, ESTC, BG, CU

SUBJECT: PL 480 TITLE I: LEGAL IMPLICATIONS OF TRADE WITH
CUBA

REF: DACCA 2959 AND PREVIOUS

1. WHILE WE UNDERSTAND BDG VIEW AS STATED PARA 4 REFTL,
CURRENT PL 480 LEGISLATION PERMITS NO RPT NO FLEXIBILITY
OR WAIVER IN THIS MATTER FOR BDG OR BDG-OWNED CORPORATION
SALES TO CUBA. (LEGITIMATE NON-GOVERNMENT SALES ARE NOT
AFFECTED.) PRESIDENTIAL WAIVER UNDER SECTION 103(D) OF
PL 480 IS AVAILABLE ONLY FOR SALES OF NON-STRATEGIC AGRI-
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CULTURAL COMMODITIES, NON-STRATEGIC RAW MATERIALS FOR

AGRICULTURE, OR MEDICAL SUPPLIES. JUTE BAGS DO NOT FALL WITHIN ANY OF THESE CATEGORIES.

2. A COMMITMENT BY THE BDG THAT IT IS NOT SELLING OR FURNISHING COMMODITIES TO CUBA IS THEREFORE NEEDED PRIOR TO USG MAKING SALES AGREEMENTS UNDER TITLE I. IF IT IS POLITICALLY DIFFICULT FOR THE BDG TO GIVE US A FORMAL WRITTEN COMMITMENT, YOU MAY, AS AN ALTERNATIVE, SEEK ASSURANCES FROM THE BDG THAT IT IS AWARE OF PROVISIONS OF OUR LEGISLATION AND THAT IT DOES NOT INTEND TO PERMIT GOVERNMENT AGENCIES OR GOVERNMENT-OWNED CORPORATIONS TO EXPORT TO CUBA OR TO PERMIT VESSELS UNDER BANGLADESH REGISTRY TO CALL AT CUBAN PORTS. FURTHER, YOU MAY INFORM BDG THAT WE WILL BE PREPARED TO CONSIDER AMENDMENT TO TITLE I AGREEMENT

WHEN BDG ADVISES YOU THAT IT IS NO LONGER SELLING OR FURNISHING COMMODITIES TO CUBA. IT IS IMPERATIVE THAT THESE ASSURANCES BE OBTAINED SINCE WE MAY NEED TO INFORM CONGRESS THAT CONSULTATION WITH THE BDG TOOK PLACE AND BDG PROVIDED APPROPRIATE ASSURANCES AS TO COMPLIANCE WITH PROVISIONS OF SECTION 103(D)(3) OF AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT (PL 480). IF THIS ALTERNATIVE IS FOLLOWED, EMBASSY SHOULD REPORT FULLY THE REACTION OF THE BDG OFFICIAL WITH WHOM MATTER DISCUSSED AS WELL AS THE NAME AND POSITION OF THE BDG OFFICIAL.

3. INASMUCH AS NO BENGAL SHIP IS REPORTED ENGAGED IN TRADE WITH CUBA, THAT ASPECT OF SECTION 103(D) OF PL 480 NOT INVOLVED, AND SECTION 620(A)(3) OF FAA WOULD NOT PROHIBIT FOREIGN ASSISTANCE TO BDG UNDER THE FAA.

4. REGARDING PARA 4 OF REFTTEL, EMBASSY MAY EXPLAIN TO BDG THAT WITH FEW EXCEPTIONS TRANSACTIONS WITH CUBA BY AMERICAN CITIZENS OR SUBSIDIARIES OF AMERICAN CORPORATIONS MAY NOT TAKE PLACE WITHOUT A LICENSE ISSUED BY THE TREASURY DEPARTMENT UNDER THE TRADING WITH THE ENEMY ACT. LICENSES ARE RARELY GRANTED, AND THEN ONLY IN EXCEPTIONAL CASES. QUESTION OF LICENSING U.S. SUBSIDIARIES TO TRADE WITH CUBA IS, HOWEVER, UNRELATED TO QUESTION OF APPLICABILITY OF RELEVANT PROVISIONS U.S. LAW REGARDING GOVERNMENT LIMITED OFFICIAL USE

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MENT TRADE WITH CUBA (SECTION 103(D)(3) OF PL 480), OR CARRIAGE OF GOODS TO OR FROM CUBA BY FLAG VESSELS OF A COUNTRY RECEIVING AID OR PL 480 SALES (SECTION 103(D)(3) OF PL 480; SECTION 620 (A)(3) OF FAA). UNDER PL 480 GOVERNMENT SALES TO CUBA BY WHATEVER COUNTRY CREATES INELIGIBILITY FOR TITLE I SALES AGREEMENTS WITH THAT COUNTRY. APPLICATION OF THIS PROHIBITION MAY BE WAIVED ONLY ON NATIONAL INTEREST GROUNDS FOR SALES OF NON-

STRATEGIC RAW MATERIALS OR COMMODITIES, OR MEDICAL SUPPLIES, WHICH IS NOT THE CASE WITH JUTE BAGS

5. ALSO RELATIVE TO REFTTEL PARA 4, IT MAY BE POINTED OUT THAT SECTION 103D)(3) WAS ADDED BY FOOD FOR PEACE ACT AMENDMENT OF 1966 WHICH CAME INTO EFFECT JANUARY 1967. THEREFORE, STATUTE IRRELEVANT TO PAKISTAN TRANSACTIONS REPORTED IN REFTTEL. SISCO

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PL 480 TITLE 1, FOREIGN ASSISTANCE LAW, FOREIGN TRADE
Control Number: n/a
Copy: SINGLE
Draft Date: 02 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: shawdg
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE143325
Document Source: CORE
Document Unique ID: 00
Drafter: LBLESSER:AID/GCCGOLDSTEIN/MW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740176-0610
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740779/aaaacpzt.tel
Line Count: 123
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: DACCA 2959 AND PREVIOUS
Review Action: RELEASED, APPROVED
Review Authority: shawdg
Review Comment: n/a
Review Content Flags:
Review Date: 14 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14-Aug-2002 by boyleja>; APPROVED <19 FEB 2003 by shawdg>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PL 480 TITLE I: LEGAL IMPLICATIONS OF TRADE WITH CUBA
TAGS: EAID, EAGR, ESTC, BG, CU
To: DACCA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005